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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re:

GIGA WATT, Inc., a Washington
corporation,
Debtor.

Case No. 18-03197-FPC

The Honorable Frederick P. Corbit

Chapter 7

**TRUSTEE'S MOTION FOR
AUTHORITY TO PAY EXPENSES
INCIDENT TO DISCOVERY IN
PERKINS ADVERSARY
PENDING SETTLEMENT
NEGOTIATIONS**

Mark D. Waldron, as the Chapter 7 Trustee ("Trustee"), hereby moves for an Order pursuant to § 363(b) of the Bankruptcy Code, in substantially the form attached hereto as **Exhibit A**, authorizing the Trustee (i) to pay expenses incident to fact discovery in the adversary proceeding, *Waldron v. Perkins Coie, et al.*, pending in this case, as Adv. Proc. No. 2:20-ap-80031 ("Perkins Adversary") and (ii) to enter into an agreement with LexBe, Inc. pursuant to which the discovery database which holds the Lighthouse documents will be put in hibernation at the

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1 reduced price of \$100 per month pending finalization of the settlement of the
2 Perkins Adversary and the WTT Token class action pending in the United States
3 District Court for the Eastern District of Washington, captioned, *Dam v. Perkins,*
4 *et al.*, Case No. 2:20-cv-00464-SAB. The total amount requested is \$7,100.

5 **JURISDICTION**

6 This Court has jurisdiction over this case pursuant to 28 U.S.C. §§ 157 and
7 1334. This motion is a core matter under 28 U.S.C. §§ 157(b)(2)(A), (M), and (O).

8 **BACKGROUND**

9 On May 3, 2022, this Court authorized the Trustee to pay up to \$32,107 in
10 discovery expenses in the Perkins Adversary pursuant to the *Order Granting*
11 *Trustee's Motion for Authority to Incur and Pay Expenses Incident to Discovery*
12 *in Perkins Adversary*, ECF No. 958. Of that amount, \$22,507 was designated for
13 depositions and \$9,600 was designated for extracting, processing and storing the
14 documents obtained from Lighthouse, Inc. in a database.

15 Discovery expenses are less than the budgeted amount. Total expenses are
16 \$19,107, leaving a budget balance of \$13,000. Expenses for depositions were only
17 \$4,507. However, fees for electronic document extraction, processing, and storing
18 have exceeded the \$9,600 that was allocated for this category of discovery
19 expenses. The excess amount totals \$6,600 as set forth below:

20 Payee	Description	Amount
Lighthouse, Inc.	Extraction costs	\$1,400
21 LexBe, Inc.	Database management	\$4,200
Total		\$6,600

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1 The fees for database management accrue at the rate of \$600 a month. The
2 estate currently owes LexBe, Inc. \$2,400 for fees accrued from November 2022
3 through February 2023 (4 x \$600 = \$2,400). March has not been billed, yet.
4 However, \$600 will be due for March. Additional fees will be incurred for the
5 months of April and May 2023 (2 x \$600 = \$1,200) pursuant to the LexBe
6 database subscription agreement which expires in May 2023.

7 In addition to permission to pay the \$6,600 as described above, the Trustee
8 requests permission to pay an additional \$500 to LexBe, Inc. in fees to maintain
9 the Lighthouse document database in a “hibernation” state starting on June 1,
10 2023 and ending on October 31, 2023 at the rate of \$100 per month. This is
11 appropriate and necessary while the Trustee finalizes the settlement of the Perkins
12 Adversary and the WTT Token class action. Converting the database to a
13 hibernation state pending finalizing the settlement will reduce the estate’s monthly
14 overhead while retaining the ability to resurrect the database efficiently should the
15 parties not be able to finalize their agreement and obtain the necessary Court
16 approvals.

17 *[This Motion continues on the next page.]*
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The foregoing chart compares the cost of resurrecting the database after hibernation with the cost of resurrecting the database after cancellation:

	Hibernation Option	Cancellation Option
June – October 2023	\$500	\$0
Resurrecting		
Archiving		\$975
Processing		\$900
Hard Drive Disk		\$150
Total Amount	\$500	\$2,025
Days to Resurrect	3	7-10 days

As set forth in the chart above, it will take less time to resurrect the database from hibernation than from cancellation. The Trustee will also have the ability to cancel the hibernation by providing notice. The termination will occur at the end of the month when the notice is provided. Thus, if the settlement is finalized before October 2023, then the estate will not have to pay for the remaining months. The hibernation will automatically end on October 31, 2023.

CURRENT FUNDS AND CHAPTER 7 ADMINISTRATIVE EXPENSES

The estate has a total of \$492,837.09 in cash on hand. Pursuant to the *Order: (i) Approving the Sale of Moses Lake Equipment and Related Relief, (ii) Approving Bid Procedures, and (iii) Shortening Time to Object, [ECF 765](#)*, dated October 20, 2020, \$112,000 of that amount is encumbered, leaving \$380,837.09 in

unencumbered funds. Outstanding Chapter 7 administrative expenses are as follows:

Pending Chapter 7 Administrative Expenses	Amount
Attorneys Fees Incurred but Not Paid (for the period January 27, 2023 to March 28, 2023)	\$3,000 ¹
Accountants' Fees (estimated)	\$10,000
Total	\$13,000

Based on the foregoing, incurring and paying the foregoing expenses is a prudent exercise of the Trustee's business judgment under the circumstances of this case and is in the best interests of the Debtor's estate and its creditors.

The Trustee respectfully requests that the Court grant the Motion and grant such other and further relief as the Court finds equitable and just.

DATED this 3rd day of April 2023.

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¹ This amount is for hourly attorneys' fees incurred for the period January 22, 2023 through March 31, 2023. Hourly fees incurred before January 22, 2023 have been paid pursuant to Court Orders.

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